

**405.020 Custody, nurture, and education of minor child -- Physically and mentally disabled children -- De facto custodian.**

- (1) The father and mother shall have the joint custody, nurture, and education of their children who are under the age of eighteen (18). If either of the parents dies, the survivor, if suited to the trust, shall have the custody, nurture, and education of the children who are under the age of eighteen (18). The father shall be primarily liable for the nurture and education of his children who are under the age of eighteen (18) and for any unmarried child over the age of eighteen (18) when the child is a full-time high school student, but not beyond completion of the school year during which the child reaches the age of nineteen (19) years.
- (2) The father and mother shall have the joint custody, care, and support of their children who have reached the age of eighteen (18) and who are wholly dependent because of permanent physical or mental disability. If either of the parents dies, the survivor, if suited to the trust, shall have the custody, care, and support of such children.
- (3) Notwithstanding the provisions of subsections (1) and (2) of this section, a person claiming to be a de facto custodian, as defined in KRS 403.270, may petition a court for legal custody of a child. The court shall grant legal custody to the person if the court determines that the person meets the definition of de facto custodian and that the best interests of the child will be served by awarding custody to the de facto custodian.
- (4) Notwithstanding the provisions of subsections (1) and (2) of this section, if either parent dies and at the time of death a child is in the custody of a de facto custodian, as defined in KRS 403.270, the court shall award custody to the de facto custodian if the court determines that the best interests of the child will be served by that award of custody.

**Effective:** July 15, 1998

**History:** Amended 1998 Ky. Acts ch. 250, sec. 6, effective July 15, 1998. -- Amended 1992 Ky. Acts ch. 434, sec. 4, effective July 14, 1992. -- Amended 1986 Ky. Acts ch. 360, sec. 1, effective July 15, 1986. -- Amended 1968 Ky. Acts ch. 100, sec. 19. -- Amended 1952 Ky. Acts ch. 138, sec. 1. -- Recodified 1942 Ky. Acts ch. 208, sec. 1, effective October 1, 1942, from Ky. Stat. sec. 2016.